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HOUSE BILL 413

48TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2008

INTRODUCED BY

Teresa A. Zanetti

AN ACT

RELATING TO PUBLIC MONEY; PROHIBITING INVESTMENT IN HEDGE FUNDS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 6-8-7 NMSA 1978 (being Laws 1957, Chapter 179, Section 7, as amended by Laws 2005, Chapter 194, Section 1 and by Laws 2005, Chapter 240, Section 1) is amended to read:

"6-8-7. POWERS AND DUTIES OF STATE INVESTMENT OFFICER-- INVESTMENT POLICY--INVESTMENT MANAGERS.--

A. Subject to the limitations, conditions and restrictions contained in policy-making regulations or resolutions adopted by the council and subject to prior authorization by the council, the state investment officer may make purchases, sales, exchanges, investments and reinvestments

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1 of the assets of all funds administered under the supervision
2 of the council in accordance with the Uniform Prudent Investor
3 Act. The state investment officer shall see that money
4 invested is at all times handled in the best interests of the
5 state.

6 B. The state investment officer shall formulate and
7 recommend to the council for approval investment regulations or
8 resolutions pertaining to the kind or nature of investments and
9 limitations, conditions and restrictions upon the methods,
10 practices or procedures for investment, reinvestment, purchase,
11 sale or exchange transactions that should govern the activities
12 of the investment office; provided, however, that the state
13 investment officer shall not recommend and the council shall
14 not approve investment in a hedge fund. As used in this
15 subsection, "hedge fund" means a private investment fund or
16 pool, including a relative value fund, market neutral fund,
17 arbitrage fund or long or short equity fund, the assets of
18 which are managed by a professional management firm that:

19 (1) trades or invests, through public market
20 or private transactions, in securities, commodities, currency,
21 derivatives or similar classes of financial assets; or

22 (2) is not an investment company pursuant to
23 the provisions of 15 U.S.C. 80a-3(c)(1) or 15 U.S.C.
24 80a-3(c)(7).

25 C. The council shall meet at least once each month,

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1 and as often as exigencies may demand, to consult with the
2 state investment officer concerning the work of the investment
3 office. The council shall have access to all files and records
4 of the investment office and shall require the state investment
5 officer to report on and provide information necessary to the
6 performance of council functions. The council may hire one or
7 more investment management firms to advise the council with
8 respect to the council's overall investment plan for the
9 investment of all funds managed by the investment office and
10 pay reasonable compensation for such advisory services from the
11 assets of the applicable funds, subject to budgeting and
12 appropriation by the legislature. The terms of any such
13 investment management services contract shall incorporate the
14 statutory requirements for investment of funds under the
15 council's jurisdiction.

16 D. All funds managed by the state investment
17 officer shall be managed in accordance with the Uniform Prudent
18 Investor Act. With the approval of the council, the state
19 investment officer may employ investment management services to
20 invest the funds and may pay reasonable compensation for
21 investment management services from the assets of the
22 applicable funds, subject to budgeting and appropriation by the
23 legislature.

24 E. For funds available for investment for more than
25 one year, the state investment officer may contract with any

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1 state agency to provide investment advisory or investment
2 management services, separately or through a pooled investment
3 fund, provided the state agency enters into a joint powers
4 agreement with the council and that state agency pays at least
5 the direct cost of such services. Notwithstanding any
6 statutory provision governing state agency investments, the
7 state investment officer may invest funds available from a
8 state agency pursuant to a joint powers agreement in any type
9 of investment permitted for the land grant permanent funds
10 under the prudent investor rule, except as provided in
11 Subsection B of this section. In performing investment
12 services for a state agency, the council and the state
13 investment officer are exempt from the New Mexico Securities
14 Act of 1986. As used in this subsection, "state agency" means
15 any branch, agency, department, board, instrumentality,
16 institution or political subdivision of the state, the New
17 Mexico finance authority, the New Mexico mortgage finance
18 authority and any tax-exempt private endowment entity whose
19 sole beneficiary is a state agency.

20 F. The state investment officer shall provide
21 quarterly performance reports to the legislative finance
22 committee. Annually, the state investment officer shall ratify
23 and provide written investment policies, including any
24 amendments, to the legislative finance committee."

25 Section 2. EFFECTIVE DATE.--The effective date of the

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1 provisions of this act is July 1, 2008.

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